

Christopher Canter

From: Jonathan Marashlian [jsm@thlglaw.com]
Sent: Thursday, September 07, 2006 2:04 PM
To: 'Stephen Murray'
Cc: 'Fred Miri'; 'skrivanm@madisonriver.net'; 'David Rudd-GR'; 'Michael Shuler'
Subject: RE: Bitwise ICA edits
Follow Up Flag: Follow up
Flag Status: Red

You are all missing the fundamental points.

First, I did not agree that the 198+ pricing was to be a one time or three time deal. Had this been the case, this issue would not have been resolved. To the contrary, the agreement was to ensure stable, ICA-based (cost-based) pricing for the circuits for the duration of the old ICA.

Second, GRC is not free to offer "tariffed" rates for circuits that are subject to unbundling under federal and state laws which require pricing of unbundled circuits to be cost-based.

Going back to the root problem here, by not having ICA-based (cost-based) pricing in its original ICA and not negotiating an amendment to the ICA when my client requested these unbundled circuits, GRC violated federal and state laws by even offering BitWise a "one time promotion." I agreed to not pursue this issue further on the condition that GRC would honor the 198+ pricing for the duration of the original ICA.

Now you are going back in time and giving life back to the legal issue. GRC simply CANNOT offer a one time promotion. Doing so is tantamount to an unfilled interconnection agreement... it's a side agreement that was never filed nor approved by the ICC and never made available to other CLECs. Do I need to brief you all once again on the law and the consequences of violating the law, which apply strictly to the ILEC since the ILEC is the entity with the statutory duty to file? Or, are we going to agree that the 198+ pricing agreed to is effective until the expiration of the original ICA or execution of replacement, whichever is sooner, without the PAY and SEEK CREDIT later condition?

Please advise.

Jonathan

Tel: 703-714-1313
www.thlglaw.com

CONFIDENTIAL & PRIVILEGED - ATTORNEY-CLIENT COMMUNICATION

From: Stephen Murray [mailto:murrays@madisonriver.net]
Sent: Thursday, September 07, 2006 1:42 PM
To: jsm@thlglaw.com
Cc: 'Fred Miri'; 'skrivanm@madisonriver.net'; 'David Rudd-GR'; 'Michael Shuler'
Subject: RE: Bitwise ICA edits

Jonathan, I do not recall offering to allow these circuits to be installed at the discounted price (198+/-), other than the first 3 circuits, prior to the execution of the new ICA...

The pay and credit back thing has always been the only way that we could provide the original circuits... Any subsequent circuit orders to obtain this special pricing required execution of the ICA; no other caveats or conditions were offered...

I am really concerned that at this juncture, folks can't remember what was articulated. I do recall specifying that these rates would NOT take effect until the new ICA was in-place and that the 3 original

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circuits was a one time deal...

In addition, Mr. Miri had discussion with Mr. Schuler on the discounted circuits pricing, prior to your involvement and Mr. Schuler agreed. I was privy to that discussion and it was offered as a "One time deal"...

Stephen V. Murray
Director, Regulatory Affairs
Madison River Communications, LLC
103 So. 5th Street
Mebane, NC 27302
919-563-8109
murrays@madisonriver.net

-----Original Message-----

From: Jonathan Marashlian [mailto:jsm@thlglaw.com]
Sent: Thursday, September 07, 2006 1:28 PM
To: 'Stephen Murray'
Cc: 'Fred Miri'; skriyanm@madisonriver.net; 'David Rudd--GR'; 'Michael Shuler'
Subject: RE: Bitwise ICA edits

Fred/Steve -

I don't even know where to begin.

When Steve and I initiated negotiations on the replacement ICA, this issue came up almost immediately thereafter. Steve and I agreed to a resolution of the matter which called for BitWise to pay \$228 (\$198 for the T-1 and \$30 for the 4-wire) until the replacement ICA was signed. There were no discussions of this "pay and credit back later" approach referred to by Fred. Let's be men of our words, gentlemen.

We've engaged in comprehensive and I must say very successful negotiations regarding the replacement ICA. We are one step from completion. Someone at GRC must be having an over-reaction to medication to be taking these steps at this moment!!

I urge you to reconsider and live up to the agreement Steve and I reached over two months ago.

Jonathan

Tel: 703-714-1313
www.thlglaw.com

CONFIDENTIAL & PRIVILEGED - ATTORNEY-CLIENT COMMUNICATION

From: Stephen Murray [mailto:murrays@madisonriver.net]
Sent: Thursday, September 07, 2006 1:10 PM
To: jsm@thlglaw.com
Cc: 'Fred Miri'; skriyanm@madisonriver.net; 'David Rudd--GR'; 'Michael Shuler'
Subject: RE: Bitwise ICA edits

Yes, I spoke to the Company President this morning and basically there are three separate issues.

1. Late Payment: Bitwise is late in making payment to GRC for its existing circuits. This is nothing new and regretfully has been a recurring

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trend...

2. Disputes: GRC had offered, in advance of the new ICA, pricing related to a product in the new ICA as an incentive to expedite matriculation of the new ICA. Bitwise had asked for 4 circuits, we agreed, but Bitwise only ordered 3 circuits. Subsequently, Bitwise asked for more circuits at this same discounted pricing structure, we refused, as the original offer was for only these 4 (really 3) circuits, because that is all that was ordered. Bitwise wanted GRC to bill the circuits at the discounted rate, which we could not do, because the billing system would not allow us to do so until the rates and products were entered into the billing system, after the new ICA was in-place. We advised Bitwise to dispute the difference and once the ICA was in-place we would credit the difference to other circuits. Since then there have been multiple attempts by Bitwise to obtain circuits at this discounted pricing, which have been declined. Bitwise has then sent in disputes for the difference on these subsequent circuits, which have also been declined. Hence, part of the past due amount.

3. Order suspension: Jonathan, although we do not like declining orders for circuits. However, it is the only tool we have to ascertain payment from our interconnected CLECs, particularly when they are delinquent in payment. It concerns us, as it does you, that some of the declined circuits are 911 circuits, but GGRC did not create the situation that resulted in the circuits being declined. Rather, Bitwise has by not being current in its payment. The current ICA is very specific that GGRC has the right to decline circuit orders for late payment. As regards the 911 circuits, I would think that Bitwise position is more perilous than GRC's, because it is Bitwise fault that the circuits are being declined, not GRC's... Further, because we have declined other circuits, the existing 911 circuits, most likely, are of adequate capacity and number to carry existing traffic. The addition of the declined circuits is most likely driving the need for the additional 911 circuits...

Bottom line: The discounted pricing was a one time promotional offer. We intend to abide by our original commitment and will render the appropriate discount, after the ICA and its associated pricing is in place. Please be mindful, that if things had progressed more quickly, that Bitwise would be enjoying this discounted pricing for these circuits on their orders... The solution to the problem, instead of us exchanging time consuming messages and expending resources with e-mails, as in the past, is for Bitwise to make the account current.

I am trying to revise the ICA pursuant to our communications yesterday and plan to have it to you early this afternoon...

Regards,

Stephen V. Murray
Director, Regulatory Affairs

6/26/2007

Madison River Communications, LLC
103 So. 5th Street
Mebane, NC 27302
919-563-8109
murrays@madisonriver.net

-----Original Message-----

From: Jonathan Marashlian [mailto:jsm@thlglaw.com]
Sent: Thursday, September 07, 2006 12:19 PM
To: 'Stephen Murray'
Cc: 'Fred Miri'; skrivnm@madisonriver.net; 'David Rudd--GR'; 'Michael Shuler'
Subject: RE: Bitwise ICA edits

Steve -

Any update? According to my client, GRC has stopped processing orders including those that were already in process and for which due dates had been established. The suspension of ordering apparently includes loops, E911 and number porting. Obviously, everything is a concern to us, but it should also be a concern to GRC that E911 is once again being affected.

Please let me know what you find out, what prompted the suspension and when we can expect it to be lifted.

Jonathan

Tel: 703-714-1313
www.thlglaw.com

CONFIDENTIAL & PRIVILEGED - ATTORNEY-CLIENT COMMUNICATION

From: Stephen Murray [mailto:murrays@madisonriver.net]
Sent: Wednesday, September 06, 2006 9:15 PM
To: jsm@thlglaw.com
Cc: 'Fred Miri'; skrivnm@madisonriver.net; 'David Rudd--GR'; 'Michael Shuler'
Subject: RE: Bitwise ICA edits
Importance: High

First, I was not aware that he had been "placed on freeze"; I do know that he is behind, but I do not have the specifics. So, I will need to check with the Company President to determine what is going on and since I just now opened this message at 9:10 PM, I will have to wait until tomorrow morning at 8 AM central...

1. So, I need to check on why he is, if he is, on freeze.
2. I will need to determine if we have or have not responded to Mike regarding the disputed amounts
3. I do not know what DS-1s are involved...

Jonathan, I will investigate and respond, forthwith...I have no desire to delay and/or derail things anymore than you...

Stephen V. Murray
Director, Regulatory Affairs
Madison River Communications, LLC

6/26/2007

103 So. 5th Street
Mebane, NC 27302
919-563-8109
murrays@madisonriver.net

-----Original Message-----

From: Jonathan S. Marashlian [mailto:jsm@thlglaw.com]
Sent: Wednesday, September 06, 2006 8:42 PM
To: 'Stephen Murray'
Cc: 'Fred Miri'; skrivam@madisonriver.net; 'David Rudd--GR';
'Michael Shuler'
Subject: RE: Bitwise ICA edits
Importance: High

Steve -

I understand Gallatin has placed a freeze on Bitwise based on allegations of unpaid past due balance. According to my client, all non-disputed charges have been paid and his account is current. There are charges which my client has formally disputed pursuant to the procedures set forth in its currently effective ICA. These disputes have neither been denied nor responded to. Therefore, Gallatin has absolutely no authorization under contract to suspend or freeze services and it is currently in breach of the ICA. More to the point, the disputed charges pertain to DS-1 charges for which you and I have previously reached an accord. Why now is Gallatin backing off our agreement?

Before we even consider signing the replacement ICA on Friday this situation MUST be cleared up and Bitwise's account MUST be released and the disputed charges resolved in my client's favor pursuant to the agreement we reached earlier this summer when our negotiations were first initiated.

This type of unconscionable and intentional frustration with my client's ability to compete on a level playing field will not be tolerated. I will call you in the morning to ensure this matter is promptly resolved.

Regards,
Jonathan

From: Stephen Murray [mailto:murrays@madisonriver.net]
Sent: Wednesday, September 06, 2006 6:22 PM
To: jsm@thlglaw.com
Cc: 'Fred Miri'; skrivam@madisonriver.net; 'David Rudd--GR'
Subject: RE: Bitwise ICA edits

My comments below in Italics; thanks for the prompt response..

Stephen V. Murray
Director, Regulatory Affairs
Madison River Communications, LLC
103 So. 5th Street
Mebane, NC 27302

6/26/2007

919-563-8109
murrays@madisonriver.net

-----Original Message-----

From: Jonathan Marashlian
[mailto:jmarashlian@verizon.net]
Sent: Wednesday, September 06, 2006 5:53 PM
To: 'Stephen Murray'
Cc: 'Fred Miri'; skrivanm@madisonriver.net; 'David Rudd--GR'
Subject: RE: Bitwise ICA edits

Steve -

I've reviewed the draft and I am ok with most everything. See my comments below.
We are close.

I have accepted most all of the edits you made and have highlighted all of those in Green.

In addition there were a few areas, where we need to chat; in those cases, I highlighted that language in Yellow.

The major areas that we need to review are;

1. Section 3.3.1.2 Page 18: Preservation of existing services.

I AM OK WITH THE GRANDFATHERING OF EXISTING SERVICES, PROVIDED THERE ARE SUITABLE ALTERNATIVES UNDER THE NEW AGREEMENT, AS YOU ADVISE THERE ARE. YOU CAN REMOVE MY LANGUAGE OR MODIFY AS NECESSARY TO ACHIEVE OUR MUTUAL INTENT. *Yes, there are alternatives, that is why we created multiple transport products and went to the extent of specifying the applicable rate elements for each product in the CLEC guide. Based on past experience, not all of the rate elements are applied, so yes there are alternatives, at near the same prices. In addition, we previously sent a letter (or e-mail, can't recall) specifying that the \$138 DS-1 would be grandfathered...*

2. Section 2.4.4, Page 33: Two way interconnection clause.

YOU MAY REINSERT 2.4.4. *Thank you, I will reinsert..*

3. Section 4.1.1, Page 34: ISP Order Cite; I need to provide this to you.

YES. I'D LOOK IT UP, BUT THERE ARE QUITE A VARIETY OF FCC ORDERS ON THE INTERNET THESE DAYS AND I'D PROBABLY PICK THE WRONG ONE. *I just sent the referenced Document to you*

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and I will insert the docket number into the agreement...

4. Section 4 & 5, Page 44: Line splitting.
Jonathan, do you have some language for this?

I WILL HAVE SOME LANGUAGE FROM A RECENT VZ AGREEMENT TOMORROW. Thanks, that will be helpful...

5. Collocation Attachment; Section 2.4.1, Page 53: There is a deleted note on M/W collo that we need to discuss.

MY CLIENT WILL NOT BE DOING ANY M/W COLO, SO IT'S MOOT. I DELETED B/C IT APPEARED TO BE A HANGING, INCOMPLETE SENTENCE. IF IT'S IMPORTANT TO GRC, KEEP IT IN. I understand both of your points. I think I will leave it out, as the existing language specifies access to transport or UNEs, which by default excludes the "relay" arrangement...

6. Attachment 5; Section 2, Page 67: The word "maps" need to be deleted form the sentence; otherwise it is OK.

OK Thank you...

7. Attachment 6, Page 69: I revised the first sentence about Recip Comp and inserted the prevailing Recip Comp rate. Also, I revised the Dark Fiber reference.

OK WITH DARK FIBER REVISION. I'VE CONFUSED MYSELF. I WAS UNDER IMPRESSION \$0.007 WAS PREVAILING RECIP COMP TERM RATE. IS \$0.011 CONSISTENT WITH YOUR AGREEMENTS WITH NTS AND ESSEX? Dark fiber, agreed, thanks. Recip Comp rate is \$0.011. It is the same rate that would be charged the others...

8. Also, there are a couple of references to Dark Fiber, which I have modified/added a caveat, as GRC does not have adequate capacity...

OK. Thanks...

I will reopen the agreement and make these changes. I will un-highlight the Green areas and Green Highlight the previous Yellow areas to make sure that we both have seen the changes...

It appears as though, we will have a productive call on Friday.

David, we may want to consider sending the

***petition docs in anticipation of closure, as the
issues above are the last items to resolve...***

Thanks very much for providing these edits and for the
significant document edits.

Regards;

Stephen V. Murray
Director, Regulatory Affairs
Madison River Communications, LLC
103 So. 5th Street
Mebane, NC 27302
919-563-8109
571-522-6439 VA ofc
202-258-1657 cel
murrays@madisonriver.net

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